

**THE NOVA SCOTIA FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY ACT
(MUNICIPAL)**

A REQUEST FOR REVIEW of a decision of the **HALIFAX REGIONAL POLICE** with respect to an application for access to police officers' records.

REVIEW OFFICER: Darce Fardy

REPORT DATE: April 6, 2004

ISSUE: Whether the Halifax Regional Police did an adequate search for the requested records and whether it made "every reasonable effort" to assist the Applicant. (Section 467(1)(a) of the *Municipal Government Act*.)

In a Request for Review under **Part XX of the Municipal Government Act**, dated February 12, 2004, the Applicant asked me to review the decision made by the Halifax Regional Police (HRP) following his request for records.

The Applicant, in a letter dated January 11, 2004, wanted to see records which would explain why the HRP was involved in serving him papers at his home.

Background:

The Applicant has ongoing differences with a bank. According to the Applicant, on December 11, 2002, a bailiff accompanied by a police officer appeared at his door to serve papers under the *Protection of Property Act*. This same police officer, and another police officer, returned to his residence the next evening to serve him more papers.

The *Protection of Property Act* is a civil act, not a criminal act. In certain situations, this *Act* allows owners of property to serve people with notice to stay away from the property or the police would be called.

The Applicant wants to know why the HRP were involved when the matter was between himself and the bank.

The HRP responded to his application in a letter dated January 23, 2004. The Applicant was told that the HRP “are not in possession of the information you have requested.”

In a letter dated March 11, 2004, the Review Office invited the HRP to make a submission with respect to the application. The letter asked the HRP to answer the following questions to help the Review Officer determine whether an adequate search was conducted.

- By whom was the search for records conducted?
- What places were searched?
- What types of files were searched?
- What were the results of the search?
- Is it possible such records existed but no longer exist?

This is standard procedure when an issue of adequate or “reasonable search” is raised.

The HRP chose not to make a submission with answers to the questions posed. However it did provide the Review Officer with the notes of the police officer who accompanied a bailiff to the home of the Applicant.

Conclusions:

The responsibilities of a Municipal Body in answering applications for access under the MGA are found in Section 467:

- make every reasonable effort to assist the Applicant and to respond openly, accurately and completely;
- provide a name and telephone number of an employee who can answer any question the Applicant might have about the decision; and
- advise the Applicant he may ask for a review of the decision by the Review Officer.

I believe it is fair to conclude that the HPR did not follow the requirements of the *Act* in dealing with this application. Its letter of decision acknowledged receipt of the application and said: “Please be advised the Halifax Regional Police are not in possession of the information you requested.” I believe that the police officer’s notes are responsive to this application and the Applicant should have been provided with a copy of them or told under what exemption the notes were being refused.

The HRP also chose not to provide answers to the questions posed by the Review Office about the adequacy of the search. I have to accept that the notes provided to the Review Officer are the only record of the incident the Applicant inquired about.

In my view this review was unnecessary. An explanation from the HRP of why the police accompanied the bailiff to his home and made a subsequent visit, and why there were no records kept, would probably have satisfied the Applicant. He had no recourse but to file a request for review.

Recommendations:

I recommend the HRP disclose the police notes to the Applicant after severing personal information of a third party. I also recommend the HRP provide the Applicant with a more complete response to his application and his questions.

Section 493 of the Act requires the responsible officer to make a decision on these recommendations within 30 days of receiving them and to notify the Applicant and the Review Officer, in writing, of that decision. If a written decision is not received within 30 days, the Halifax Regional Police is deemed to have refused to follow these recommendations.

Dated at Halifax, Nova Scotia this 6th day of April, 2004.

Darce Fardy, Review Officer